

### **REMARKS/ARGUMENTS**

The present Amendment is responsive to the final Office Action mailed February 22, 2008.

Claims 5, 7 and 16 are canceled without prejudice or disclaimer. Therefore, claims 1-4, 6, 8-15 and 17-22 are the claims currently pending in the application.

Claims 1, 10, 18 and 20-22 are amended to clarify features recited thereby. The amendment to claims 1, 10, 18 and 20-22 involve features recited previously by canceled claims 5, 7 and 16. Accordingly, it is believed that the amendments do not raise any new issues that would require further searching.

#### ***Rejection of Claims 1-6, 8-16 and 18-22 under 35 U.S.C. §103***

Claims 1-6, 8-16 and 18-22 are rejected under 35 U.S.C. §103 as being obvious from Straub et al., U.S. Patent No. 5,905,492 in view of Tanaka, UK Patent GB 2,372,587. Reconsideration of this rejection is respectfully requested.

According to an aspect of applicant's invention as claimed in claims 1, 10, 18 and 20-22, the data request controller of a mobile communication device can hold the transmission of a data request to the server when it is detected that at least one communication or internal processing function is operating in the mobile communication device. In this way, the amount of communication bandwidth required and the amount of processing at any one time can be reduced and interference with real time communication by the mobile device can be suppressed or mitigated.

Claims 1, 10, 18 and 20-22 require a data request controller holding the transmission of the data request to the server when at least one communication or internal processing function is operating in the mobile communication device.

The Office Action alleges that Tanaka discloses at page 6, second paragraph, that the data request controller holds the transmission of a data request to the server when at least one communication or internal processing function is operating in the mobile communication device (Office Action, page 13). It is respectfully submitted that the cited art, including Tanaka, does not disclose or suggest such features.

Tanaka discloses automatically downloading data from the internet for a wireless device in accordance with a prearranged schedule (Tanaka, Abstract), and discloses that when the wireless device determines that downloading is scheduled, the routine progresses to a connection stage during which the routine uses the dial-up number to establish an internet connection to the server,

and in the event of failure, additional attempts are made to connect (Tanaka, page 6, second full paragraph).

Tanaka and the cited art do not disclose or suggest holding the transmission of a request to the server in response to the detection of an operation of another communication or internal processing function. Therefore, Tanaka and the cited art do not disclose or suggest holding the transmission of the data request to the server when at least one communication or internal processing function is operating in the mobile communication device, as required by claims 1, 10, 18 and 20-22. Therefore, claims 1, 10, 18 and 20-22 are neither anticipated by nor obvious from the cited art.

Further, claims 1, 10, 20 and 22 require randomly selecting a piece of data from the data memory comprising image data or audio data for the mobile communication device. Claims 18 and 21 require transmitting a data request for a randomly selected piece of data, the piece of data comprising image data or audio data for the mobile communication device.

Even taken together in combination, Straub and Tanaka do not disclose or suggest such randomly selected image data or audio data. Accordingly, also for this additional reason, the cited art does not disclose or suggest the recitations of claims 1, 10, 18 and 20-22.

Claims 2-6, 8 and 9 depend from claim 1, claims 11-16 depend from claim 10, and claim 19 depends from claim 18. Therefore, claims 2-6, 8, 9, 11-16 and 19 are patentably distinguishable over the cited art for at least the same reasons as their respective base claims.

#### ***Rejection of Claims 7 and 16 under 35 U.S.C. §103***

Claims 7 and 16 are rejected under 35 U.S.C. §103 as being obvious from Straub and Tanaka in view of Yeh, U.S. Patent No. 6,675,010. Reconsideration of this rejection is respectfully requested.

Claims 7 and 16 are canceled without prejudice or disclaimer and therefore this rejection is moot. With respect to the Yeh reference, applicant notes as follows.

Yeh discloses a mobile communication system for learning a foreign language vocabulary in which data is retrieved by a wireless device from a vocabulary database (Yeh, Abstract) in which the central mainframe receives a request from a user for a test vocabulary and randomly selects several related words from a vocabulary database to generate the user's first test vocabulary (Yeh, column 3, lines 35-41).

Yeh does not cure the above-discussed deficiencies of Straub and Tanaka as they relate to the above-noted features of claim 1. That is, while Yeh discloses random selection of a test

vocabulary word, Yeh is silent with respect to any kind of random selection of image data or audio data for the mobile communication device, as required by claim 1.

In view of the foregoing discussion, withdrawal of the rejections and allowance of the application are respectfully requested.

Respectfully submitted,

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THROUGH THE UNITED STATES  
PATENT AND TRADEMARK OFFICE  
EFS FILING SYSTEM  
ON MAY 22, 2008



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